



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 9617-24
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC (RETIRED)

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish Survivor Benefit Plan (SBP) Former Spouse coverage.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 April 2025 and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

- a. On 25 May 1994, Petitioner entered active duty.
- b. On 12 August 1995, Petitioner married [REDACTED] and they had two children: [REDACTED] born on 6 February 2000, and [REDACTED] born on 29 September 2003.
- c. On 2 June 2014, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel, electing SBP Spouse only coverage based on the full gross pay level of coverage.
- d. On 31 August 2014, Petitioner transferred to the Fleet Reserve and SBP Spouse premium deductions began on 1 September 2014.
- e. On 21 March 2020, Petitioner's spouse signed DD Form 2656-10, SBP Former Spouse Request for Deemed Election.

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f. On 27 April 2020, Petitioner and spouse signed Final Divorce Stipulation and Order agreeing that the spouse would be the sole beneficiary of Petitioner's SBP and that he would coordinate the documentation need to effectuate this obligation.

g. On 16 February 2021, Petitioner divorced [REDACTED]. Final Order and Decree incorporated the Final Divorce Stipulation and Order signed on 27 April 2020.

h. On 17 March 2021, Petitioner married [REDACTED].

i. On 25 April 2024, Defense Finance and Accounting Service (DFAS) issued letter to Petitioner's former spouse indicating, "DFAS has received your request for deem former spouse SBP. Your request cannot be honored for the following reason: The only court order on file is a Final Legal Separation Stipulation and Order. The parties are separated but not divorced so you are still covered by SBP as the Spouse. If the parties do divorce you will need to deem election within one (1) year of the divorce."

j. On 15 June 2024, Petitioner's former spouse submitted a letter to DFAS, and a DD Form 2656-10, SBP Former Spouse Request for Deemed Election. DFAS denied the request on 1 July 2024, because it was not received within 1-year of divorce.

k. On 15 August 2024, Petitioner's former spouse submitted letter explaining the decision made by DFAS to deny her enrollment in SBP was an injustice and not merited.

l. On 22 November 2024, Petitioner and current spouse signed SBP Affidavit before a notary witness requesting to elect SBP Former Spouse coverage.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect his desire to change his election to SBP Former Spouse coverage and comply with the Final Order and Decree. However, failed to submit the request within 1-year of divorce in accordance with reference (b),¹ thereby rendering him ineligible to change the election. Although Petitioner did not complete the proper administrative requirements, the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

¹ A member with spouse or spouse and child coverage may, within 1-year of the date of the divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. When a member elects former spouse coverage, the member and the former spouse must complete an election statement indicating whether the election is being made pursuant to the requirements of a court order or by a voluntary written agreement.

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Petitioner changed SBP election from "Spouse" to "Former Spouse" coverage naming [REDACTED] as the beneficiary within 1-year of divorce on 16 February 2021.

Note: The DFAS will complete an audit of Petitioner's pay records to determine if premiums are due. No waiver of unpaid premiums will be granted.

A copy of this report of proceedings will be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above titled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

4/26/2025

